



LEGISLATIVE FINANCE COMMITTEE

67th Montana Legislature

Room 110 Capitol Building * P.O. Box 201711 * Helena, MT 59620-1711 * (406) 444-2986 * FAX (406) 444-3036

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DATE: July 1, 2021

TO: U.S. Department of Treasury, Office of the Undersecretary for Domestic Finance

FROM: Montana Legislative Finance Committee
Senator Ryan Osmundson, Chair
Representative Mary Caferro, Vice Chair

RE: Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule Comments

Executive Summary:

While the interim final rule provided necessary clarification to states in the use of Fiscal Recovery Funds, the document seemed to be very urban-centric and created some additional challenges for rural states like Montana.

Of specific note in Montana are the broadband internet rules requiring specific upload and download speeds to every location. Montana is currently ranked last in the nation for broadband connectivity and as such is starting further back than most states. To achieve the standards laid out in the interim final rule present additional challenges with a large geographic distribution of a smaller overall population.

We would ask that you consider loosening the definitions and requirements for upload and download speeds required, or providing a waiver to states like Montana where strict adherence to such standards will make it more difficult to provide broadband access to a larger portion of homes and businesses statewide.

Broadband Infrastructure

Montana's average internet speeds rank last in the nation, with one source publishing 2021 speed as high as 54.4 Mbps¹ measured only within cities. A comparison to the top 10 states in the

¹ <https://www.highspeedinternet.com/resources/fastest-slowest-internet>

second list show all of them above 100 Mbps, highlighting the difference between status quo, and the standard adopted in the interim final rule. Another source² lists Montana as not only one of the worst for general access, but also showing that only 0.7% had access to what was considered a “Low-Priced Plan” defined as less than \$60 per month. Additionally, Montana has the lowest percentage of access to 100 Mbps download speeds, at only 16.2%.³

Prior to the interim final rule being published, the Montana legislature completed their biennial session in April 2021, passing HB 632 and SB 297 as the laws guiding broadband development in Montana with Coronavirus State Fiscal Recovery Funds. SB 297 established Montana definitions for unserved and underserved areas as follows:

(6) "Frontier area" means an area where there is no or extremely limited terrestrial broadband service.

(11) "Underserved area" means an area where any of the delivery points have no access to broadband service offered with a download speed range of less than 100 megabits per second and an upload speed of 20 megabits per second or less with low latency.

(12) "Unserved area" means a project area where at least 10% of delivery points have no access to broadband service or have no access to services operating with a download speed of at least 25 megabits per second and upload speed of at least 10 megabits per second with low latency.

HB 632 then prioritizes funding for broadband development to serve these areas, which seems to meet the overall intent of the ARPA and the Interim Final Rule. However, when taken in conjunction with several other aspects of the Interim Final Rule, there are potential pitfalls due to the specificity within the Interim Final Rule.

The Interim Final Rule generally requires that eligible projects meet or exceed symmetrical upload and download speeds of 100 Mbps. Even with the recognition that in some instances this may be impracticable, the lower threshold of 100 Mbps download and between 20 – 100 Mbps upload is still challenging in Montana. As the Interim Final Rule encourages the prioritization of “projects that achieve last mile-connections” the effect would be to reach far fewer homes and businesses, lowering the overall impact of the investment in Montana. Alternately, with the much higher threshold for download and upload speeds, the entire investment in Montana could be spent bringing urban areas up to speed (as even those locations do not meet the minimums outlined in the Interim Final Rule) without achieving greater overall access to broadband internet connections.

The high threshold for broadband access is a laudable goal and is a smaller leap for more urban states. However, for rural states like Montana, the inclusion of such specific metrics creates additional challenges that serve to limit the overall effectiveness of the investment rather than maximizing the impact.

² <https://broadbandnow.com/research/best-states-with-internet-coverage-and-speed>

³ <https://broadbandnow.com/research/q1-broadband-report-2021>

[additional potential comment for LFC consideration]

Water and Sewer Infrastructure

While the use of the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) as programs for determining eligibility has generally been positive, in that established programs like this provide much more clarity regarding eligibility. However, in Montana, there are significant uses of water, including potable water for drinking, irrigation projects, and entire municipal systems that are first dependent upon dams and reservoirs. By excluding these as eligible projects, the federal funding is not available to address water projects that do impact citizens in a significant way.

Please consider allowing the use of the funding for dams and reservoirs where there is a link to drinking water, irrigation projects that create efficiencies, or other projects that achieve the overall goals of the ARPA and the Interim Final Rule.

Draft Suggestions